IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 4612 of 2005

Between:

R.Simhadri, S/o.Simhadri,
O/o.The A.E.(Operation, APNPDCL), Atmakur, Warangal District.
R/o.Pochamma Kunta, Hanamkonda.

..... PETITIONER

AND

1 The Northern Power Distribution Company Ltd., rep.by its Chairman &

Managing Director, Warangal.
2 The Chief General Manager (HRD) APNPDCL, Warangal.
3 Superintending Engineer, Operation, The Northern Power Distribution

Company Ltd., Warangal.
4 Divisional Engineer/Electrical, Construction & Operation, The Northern

Power Distribution Company of A.P.,Ltd., Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, especially one in the nature of writ of Mandamus; i) declaring the Memo.No.DEE/C&O/WGL/ADM/JAO/UL/D.NO. 2196/05, dt.08-02-2005 issued by the 4th respondent as illegal and arbitrary and set aside the same. ii) Consequently direct the respondents to re-instate the petitioner into service duly granting all other consequential benefits such as continuity of service, back-wages etc., iii) and pass such other or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.VASUDEVA REDDY
Counsel for the Respondents: MR.SAMINENI KISHORE

The Court at the stage of admission made the following:

ORDER:

The petitioner filed this writ petition praying for issue of a writ of Mandamus declaring the proceedings of the 4th respondent dated 08-02-2005 as illegal and arbitrary, and consequently, to set aside the same and direct the respondents to reinstate the petitioner into service with all consequential benefits.

2. According to the petitioner, he was appointed as Helper in the year 1989. Thereafter, he was promoted as Assistant Lineman in the year 1992 and further promoted as Lineman in the year 1998. While the petitioner was working as a Lineman, he applied for leave for a period of 30 days from 01-04-2002, and thereafter, the leave was extended up to 30-09-2002. The petitioner's leave application has been forwarded by the petitioner's immediate authority for favourable consideration. According to the petitioner, he reported for duty on 01-10-2002 requesting to issue reposting orders. But the 4th respondent issued a letter dated 09-10-2002 reporting to 3rd respondent as if the petitioner was absconding from duty from 01-04-2002 to 30-09-2002. Subsequently, the 2nd respondent issued a memo permitting the 3rd respondent to admit the petitioner to duty and directed to treat the period of alleged unauthorized absence as 'dies-non'. Accordingly, the 3rd respondent issued a memo dated 20-11-2002 requesting the 4th respondent to issue reposting orders. The 4th respondent accordingly posted the petitioner as Lineman, Nandanam Sub-station, pending finalisation of the disciplinary proceedings. It is further stated that the petitioner's son disappeared in the meanwhile, and therefore, the petitioner out of mental stress became mentally disturbed and could not attend for duties. As a result of the said absence, the respondents have passed an order applying regulation 28 (3) of the A.P.S.E.B. Service Regulations Part-I (for brevity 'the

Regulations') under which the petitioner was deemed to have been terminated from service with effect from 01-04-2002. Assailing the said order, the petitioner has come up with present writ petition.

3 . At the time of hearing, the learned counsel for the petitioner represented that without conducting any departmental enquiry for taking any disciplinary action, the respondent-authorities are not entitled to terminate the services of the petitioner. It is also contended that this Court on an earlier occasion considered the validity of regulation 28 (3) of the Regulations and held that the said regulation is invalid and accordingly set aside. Therefore, it is not open to the respondents to invoke such regulation, which was set aside by this Court. Hence, sought for setting aside the impugned order.

4. The learned Standing counsel filed a counter-affidavit on behalf of the respondents disputing and denying the allegations. Further, at the time of hearing, the learned counsel contended that the action taken against the petitioner was even approved by the committee constituted for approval, and therefore, there is no merit in the contention of the petitioner.

5. Heard both sides and considered the material on record.

6 . Admittedly, the petitioner's services were terminated under the impugned order invoking regulation 28 (3) of the Regulations. But as already referred to, this Court set aside the said regulation. When the said regulation is not available on the statute of the Regulations, it is not open to the respondents to invoke such regulation further. As there was no regular enquiry before passing the disciplinary orders terminating the services of the petitioner, the impugned order is illegal.

7. Under the above circumstances, the impugned order dated 08-02-2005 is set aside, and consequently, the petitioner is deemed to be in service.

However, it is made clear that the respondent-authorities are at liberty to take appropriate action, if the circumstances warrant, in accordance with law.

8. The writ petition is accordingly disposed of. No order as to costs.

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23rd June, 2005 S.ANANDA REDDY, J

NOTE:

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Furnish C.C. within one week.

B/o.

SKM

To

1 The Chairman & Managing Director, Northern Power Distribution

Company Ltd., Warangal.
2 The Chief General Manager (HRD) APNPDCL, Warangal.
3 The Superintending Engineer, Operation, The Northern Power

Distribution Company Ltd., Warangal.
4 The Divisional Engineer/Electrical, Construction & Operation, The

Northern Power Distribution Company of A.P.,Ltd., Warangal.

5 Two CD copies

*Form-NIC-OGS/WP{**JA**}*